

Northern Mineral Policy Series

NM 5: Northern Mineral Legislation



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Northern Affairs Program

**Northern Resources and Economic
Planning Branch**

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Northern Mineral Policy Series

- NM 1: Mines and Important Mineral Deposits of the Yukon and Northwest Territories, 1982**
- NM 2: Northern Mining Overview**
- NM 3: Northern Mining Communities**
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Exploration and mining have traditionally played a key role in the economic development of the North. To ensure that the industry maintains this position, a northern mineral policy is now being prepared by the federal Department of Indian Affairs and Northern Development. Its successful implementation will depend to a large extent on the ongoing dialogue between those affected by such a policy and those responsible for its development. Therefore, as part of the consultative process now under way, I am pleased to present one of eight volumes in the northern mineral policy series.

The northern mineral policy will provide a framework for industry's sustained growth over the next decade. My intention is to clearly indicate what role the federal government is prepared to take in order to help the industry remain competitive and attract the necessary domestic and foreign investment. To achieve these goals, it is essential to develop a spirit of common purpose among those concerned about the future vitality of this industry. In Yukon and Northwest Territories, this includes federal, territorial and local governments; industry; labour; native groups; environmentalists; indeed, every concerned northern citizen.

I believe that to achieve consensus, all of these diverse groups must have a common understanding of the industry. The northern mineral policy series, by marshalling relevant data and presenting concise discussion of the major issues, can make a significant contribution to this information exchange.

Individual volumes were prepared by the staff of the Mining Management and Infrastructure Directorate of the Department's Northern Affairs Program. In some cases this was supplemented by work contracted to consultants.

This particular volume, entitled *Northern Mineral Legislation*, contains a history of the development of mining legislation in the North, a summary of current provisions and proposals for changes. The legislation covered includes Yukon Quartz Mining Act, Yukon Placer Mining Act, Canada Mining Regulations, Territorial Coal Regulations, Territorial Dredging Regulations and other pertinent legislation. The volume was prepared by W. Dent and P. Corrigan of the Mining Lands Section.

A handwritten signature in dark ink, which appears to read 'John C. Munro'. The signature is fluid and cursive, with a large, sweeping 'J' and 'M'.

John C. Munro

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NORTHERN MINERAL LEGISLATION

Introduction

Despite widespread political, economic and social changes in the North over the past 10 to 15 years, legislation dealing with exploration and mining, the North's most important industry, has remained relatively unchanged. This reflects the need to maintain stability in the "rules of the game" for an industry with such long time horizons. It also reflects the adage "if it works, leave it alone."

In very simple terms, mining legislation and administration deals with the orderly development of, and operations related to mining. Obviously, over time -- in this context, almost a century of mining in the North -- the political, economic and social environment for legislation changes, as does the technology of exploration and development. These factors must be taken into account in mining legislation.

The core of all mineral legislation concerns the ownership of mining rights and clear rules for the settlement of ownership disputes. These are vitally important elements for orderly development of the resource.

Two significant principles form the underlying basis of Canadian mining legislation. One is the principle of free access with the right to extract. The other recognizes the existence of large land holdings held in title by the Crown, which the Crown dispose of as it sees fit. Sometimes these two conflict; for example, some Crown lands may be withdrawn from disposal if they are identified for national parks, or if they become the object of native land claims. However, for the most part, these two principles will remain at the heart of northern mineral legislation.

This paper reviews the legislative regimes in Yukon and the Northwest Territories respecting the administration and disposition of mineral rights, in order to generate a dialogue on possible changes to meet industry's needs and government's responsibilities.

In Yukon, the legislative base is old and all details are locked into statutes. This inhibits timely responses to changing circumstances.

In the Northwest Territories, extensive regulations have been made under the enabling power of the Territorial Lands Act and the Public Lands Grants Act. Although this approach has worked reasonably well in the past, it may not provide the long term

certainly needed to encourage long term investment. Consideration may be given to the establishment of a mining act which will provide a firm basis for making regulations such as the Canada Mining Regulations and Territorial Coal Regulations.

Historical Background

Since August 17, 1896, the date on which Robert Henderson made the gold strike in the Klondike region, Yukon has become known the world over for its vast mineral potential. When the news of the rich new strike reached the "outside" world, an incredible rush for the Klondike began.

Pacific coast shipping companies landed thousands of people at the Alaskan ports of Dyea and Skagway from where the fortune seekers travelled over the Chilkoot Pass and more than 800 km down the Yukon River to the Klondike. This influx of people caused the settlement of Dawson, at the confluence of the Klondike and Yukon Rivers to mushroom from a few houses to a city well in excess of 25 000.

As the more easily worked placer grounds in the Klondike became exhausted, the miners left for new fields. The consolidation of mining properties under corporate bodies and the introduction of power machinery placed the industry on a more stable base.

In the wake of the Klondike rush, Yukon developed rapidly. Steamer services were established on the Yukon River, both upstream and downstream to Dawson. Construction of the White Pass and Yukon Railroad from Skagway to Whitehorse commenced in 1898 and was completed in 1900. Small towns developed at Carcross near the foot of Lake Bennett and at Whitehorse, below the rapids on the Lewes River. Dawson expanded rapidly and hotels, churches, schools and a hospital were erected. Numerous business enterprises were established and construction of a system of roads was undertaken.

As a direct result of the Klondike rush several other mining properties were discovered. In 1906, H.W. McWhorter made the first recorded lode (hard-rock or quartz) discovery of silver-lead at Galena Creek in the Mayo area.

Approximately 6 years later, 53.5 metric tons of silver-lead ore were shipped to a smelter at Trail, British Columbia. The ore returned \$296.00 per metric ton. This small shipment was

the forerunner of years of later production for this and other properties, the development of which established the area as a major mining district. United Keno Hill Mines Limited is still in production in this area today.

En route to the Klondike area two prospectors from eastern Canada made a significant discovery of lead-zinc on the southern shore of Great Slave Lake, Northwest Territories. It was not until many years later that the true significance of the discovery was realized. Presently a large open-pit operation is being carried out there by Pine Point Mines Limited.

The discovery of gold at Yellowknife in 1934 led to the establishment of the town which became the largest community and capital of the Northwest Territories.

Legislative Development

The first legislation to govern the administration and disposition of all mineral rights on Dominion Lands in Canada was approved by order-in-council in 1884. Amendments were made in 1887. These first regulations, made pursuant to the Dominion Lands Act, made no distinction between placer and hard-rock mining operations. Amendments, made in 1898, were referred to as Quartz Mining Regulations.

With increased development of mining properties in Yukon in the early 1900s, the mining industry began pressing for improvements to the legislation. In response, the Yukon Placer Mining Act and the Yukon Quartz Mining Act were enacted by Parliament in 1906 and 1924 respectively. With some minor amendments, both acts remain in force today.

An attempt to comprehensively revise the Yukon Quartz Mining Act was made by the presentation to Parliament of Bill 482 on May 2, 1955, but was dropped.

A more recent attempt at a complete revision of the Yukon Quartz Mining Act was Bill C-187 which was introduced to the House of Commons on November 9, 1970. It received second reading on March 5, 1971 and was forwarded to the standing committee on Indian affairs and northern development for further review. Public hearings on the committee's bill were held in August and September, 1971. Later, in the light of the other urgent matters before Parliament at that time, the bill

was withdrawn. As a result of the many briefs presented to the standing committee in 1971, as well as numerous comments submitted to the department, new drafts of the bill were made to incorporate appropriate changes. However, no final bill was prepared and presented to Parliament.

A proposal was made in 1980 to make minor amendments to those sections of the Yukon Quartz Mining Act which unduly restrict the rights of individuals in staking, maintaining and leasing mineral claims - limitations no longer included in other Canadian mining legislation. Again, no final bill was prepared.

With the promulgation of the Yukon Quartz Mining Act in 1924, the remaining public lands in Canada under federal jurisdiction remained under the control of the Dominion Lands Act (superseded by the Territorial Lands Act in 1950) which provided for making regulations to cover the administration and disposition of mineral rights in the Northwest Territories. These regulations, known in 1924 as the "Regulations for the Disposal of Quartz Mining Claims on Dominion Lands in Manitoba, Saskatchewan, Alberta and the Northwest Territories", evolved throughout the years by amendment and removal of provincial jurisdictions to become the Canada Mining Regulations of today.

The Canada Mining Regulations are made pursuant to both the Territorial Lands Act and the Public Lands Grants Act (promulgated May 16, 1890) in order to cover lands in the Northwest Territories along with any lands in Canada for which there are no other provisions in law (e.g. offshore areas of British Columbia and Nova Scotia). These regulations, promulgated originally under the title of Canada Mining Regulations in 1960, were completely revised in 1961. They did not receive a major revision again until 1977 although many amendments, some of a significant nature, were made between 1961 and 1977. Administrative amendments to these regulations were prepared in 1982 and are now undergoing legal drafting. This document is described in Appendix I.

Because of the high level of mineral industry activity in Yukon in the early years of this century, mineral rights legislation for Yukon was fixed by statute. Even today, the Yukon mineral industry prefers to see as many details of mineral rights legislation as possible in statute form.

The mineral industry in the Northwest Territories, on the other hand, has been amenable to operating under the flexibility of

regulations which may be adapted to unforeseen situations by order-in-council.

Other mineral legislation applicable to Yukon and the Northwest Territories, and promulgated pursuant to the Territorial Lands Act, are the Territorial Coal Regulations, the Territorial Dredging Regulations and the Territorial Quarrying Regulations.

A substantial revision to the Territorial Coal Regulations has been prepared after extensive public and intra- and inter-governmental consultation during 1980 and 1981. These new draft regulations are similar to the existing Canada Mining Regulations with only administrative or technical differences to meet the specific characteristics of coal exploration. This document is with the Department of Justice Canada for legal drafting. It is described in Appendix I.

Mine health and safety legislation is contained in territorial ordinances in the respective territories. Responsibility for the administration of mine health and safety was transferred to the Northwest Territories government on June 1, 1981. An offer to transfer similar responsibility to the Yukon government has not yet been accepted. Northern mineral legislation is summarized in Appendix II.

The Need for Changes to Legislation

The two major Yukon mining statutes, the Yukon Quartz Mining Act and the Yukon Placer Mining Act, are antiquated and the need for modernization is recognized by industry and government alike.

The major item of mineral legislation in the Northwest Territories, the Canada Mining Regulations, has been revised throughout the years and, with the exception of minor changes currently proposed, is generally satisfactory.

The Territorial Coal Regulations, which is common to both Yukon and the Northwest Territories, requires amendments with respect to the establishment of long term rights. In addition, as it presently stands, it does not contain many of the provisions presently established in the Canada Mining Regulations.

Yukon Quartz Mining Act

The Yukon Quartz Mining Act, as promulgated in 1924, was designed for individual prospectors and small operators in search of precious metals, mainly gold. The emphasis on protecting the interests of the small operator is evident throughout the act. However, as mineral exploration shifted to other minerals such as lead and zinc, bringing the need to stake large areas of land and invest significant capital to properly evaluate the economic viability of mineral deposits, the operation of the act has become inefficient for both companies and government. More importantly, there are serious legal implications with respect to the validity of claims. These problems arise throughout the act and are examined below.

Staking

Under the act only eight mineral claims within a radius of 10 miles (16 km) during a 12-month period may be staked. As a result, the practice has grown to employ a number of stakers to cover a larger area. In the process, disputes have arisen because of the manner in which staking was performed and, at times, court cases have been required to decide the legality of the staking.

The use of hired stakers, although now a common practice, could also be construed as a contravention of the act. This could place the validity of claims acquired in this manner in a questionable position. Amendments to the act must clarify the legal situation and validate existing claims.

Other desirable changes to the act respecting staking include:

- tagging claim posts at the time of staking to avoid an unnecessary return trip to the claims;
- witnessing both claim posts rather than only the No. 2 post, thus facilitating the staking of areas covered by water and also avoiding unnecessary risks in attempting to properly stake claims in the mountainous terrain;
- reducing the size of claim posts to permit the use of finished lumber;

- . providing for staking on behalf of a corporation to permit corporate personnel to stake any number of claims in the company's name thereby reducing staking costs and avoiding transfer fees and related administrative costs;
- . providing for the use of cairns in treeless areas; and
- . removing the requirement to mound posts.

Representation Work and Grouping

In the light of modern exploration techniques, the provisions of the act respecting representation work and grouping need updating. For example, the act limits the acceptance of non-physical work such as geological, geophysical and geochemical surveys to the first 3 years of the life of the claim. To the extent that such technical evaluations are necessary for determining the mineral potential of a mining property, full dollar credit could be given for the work throughout the life of the claim.

Other possible changes include:

- . increase grouping provisions from 16 claims to 100 claims;
- . with some discretion by departmental officials, allow the acceptance of preliminary property examinations made prior to the recording of the claim as representation work;
- . allow studies performed to determine the economic and environmental viability of a property as representation work performed on the claim;
- . delete provisions for reinstating a claim if the holder files work within 6 months of the expiry date;
- . provide for extensions with work performance bond deposits in cases where work cannot be completed by the claim holder because of illness or other valid reasons; and

- provide for a 60-day notice system in order that a claim holder does not suffer loss of rights because of failure to comply with an administrative detail of the act.

Leasing

Leasing procedures are outdated and involve unnecessary paper work. In addition, the requirement to find a vein or lode within the limits of the claim may require modification, given that modern exploration techniques can now locate mineralization in areas entirely covered by overburden. Where extensive areas are of sufficient potential perhaps grouping provisions could be developed to allow some claims to be held without being fully explored. Finally, Canadian participation requirements might be inserted at the leasing stage since it is after this point in the exploration and development process that production decisions are made.

General Considerations

Other possible changes include:

- establishing an appropriate annual lease rental with provisions identical to those contained in the present Canada Mining Regulations for writing off rentals for exploratory work done on the leased areas;
- accepting a perimeter survey of a maximum of 50 claims;
- instituting a notice system for the collection of annual rentals;
- requiring a license to export minerals or ore from Canada;
- applying the Territorial Land Use Regulations to mining lands;
- providing for withdrawal of lands for specific purposes;
- prescribing regulations for carrying out the intent of the act so that administrative requirements that

do not affect holders' rights could be changed in a timely manner;

- . deleting references to the commissioner;
- . administering the act through the minister, chief mining recorder and mining recorders;
- . defining the term "mineral" to remove uncertainties that exist as a result of the recovery of other minerals by placer operations;
- . revising sections dealing with the right to enter, locate claims, prospect, and mine on lands in the territory to clearly state what lands are open for location under the act and what procedure must be followed to acquire the right to prospect and mine on lands already occupied for other purposes;
- . revising sections concerning rights of claim and lease holders to extinguish their rights to the use of timber and the surface;
- . providing rehabilitative measures within mine sites;
- . subordinating the act to other legislation respecting safety, water use, forestry and other environmental aspects;
- . including transitional clauses for the protection of prior rights; and
- . revising clauses respecting fractions.

Yukon Placer Mining Act

The current Yukon Placer Mining Act was promulgated in 1906 and, with the exception of minor amendments throughout the years, remains basically unchanged today. The only significant change to the act took place in 1970 with the enactment of the Northern Inland Waters Act which rendered inoperative sections of the Yukon Placer Mining Act respecting the granting of water rights.

Following a series of public hearings during 1973 to 1975, the Yukon Territory Water Board, constituted under the Northern Inland Waters Act, developed guidelines governing the conditions for issuing of water use authorizations for the placer mining industry. These guidelines did not satisfy the habitat protection provisions of the Fisheries Act promulgated in 1977. By a similar process, new more stringent guidelines were developed in 1979 but never implemented.

Recently, new draft guidelines have been developed. These were reviewed in public hearings by the public review committee on placer mining in the fall of 1983. The committee has presented its report to the ministers of Indian and Northern Affairs Canada, Fisheries and Oceans and Environment Canada, outlining its view of how best to revise and implement guidelines governing water use and land rehabilitation for the Yukon's placer mining industry. This report was made available to the public on January 18, 1984.

Implementation of the review committee's recommendations would require amendment of the Northern Inland Waters Act and pursuant regulations and the authorization of the Minister of Fisheries and Oceans as provided in subsection 31(2) of the Fisheries Act.

Further changes to the Yukon Placer Mining Act, which could be considered as part of the effort to update the statute to meet modern day needs, are discussed below.

Administration

Administrative provisions are required to reflect the current division of responsibilities between the commissioner of Yukon and regional departmental officials.

Mineral Production

Amendments could be provided to require the reporting of production of all minerals from placer operations and the payment of royalties on this production.

Acquisition of Rights

Although the two-post staking method could be retained, it may not be necessary to establish surveyed base lines to

provide a workable system of claim staking. Distinctions between different types of claims could be eliminated.

The limitation on the number of claims that may be staked by an individual could be omitted to provide for larger mining operations.

Representation Work

Credits could be allowed for non-physical as well as environment-related work. The required value could also be reassessed.

Grouping

In order to provide industry with the necessary ground for larger operations, the grouping provisions of the act could be increased at least five-fold.

Placer Claim Holder's Rights

Placer mining rights in Yukon might be updated to make such rights compatible with a multiple land use approach to resource management. This would be consistent with the report of the Yukon placer mining guidelines public review committee.

Placer Lease to Prospect

The placer lease to prospect could be replaced by a prospecting permit system in a manner similar to the Canada Mining Regulations but for smaller areas and with a required work performance deposit.

Consideration could also be given to placing both placer rights and rights to "hard rock" minerals under one act. All rights could be acquired by staking one claim, but distinct requirements could cover the two different types of operations.

Canada Mining Regulations

The Canada Mining Regulations have been revised through the years to keep pace with mineral exploration and development technology, industry needs and government policies.

Issues which may need to be addressed relate to provision of a new statutory basis for these regulations. Some of the elements now promulgated by regulation -- for example, royalty to be charged, Canadian participation provisions, and requirements for permission to export untreated or partly treated ores from Canada -- could be considered for inclusion in the statutory base. A number of administrative amendments which are described in Appendix I have been submitted for legal drafting. It may be desirable to continue this initiative pending definition of any new policy.

Territorial Coal Regulations

The Territorial Coal Regulations, as established in 1954, simply provided a vehicle to administer the local use of small volumes of coal. In 1967, sections were added to provide a means to dispose of vast areas as coal exploration rights. The current regulations are seriously deficient because they do not provide for the conversion of the total area of exploratory rights directly into long term rights (leases). During 1980 and 1981, comments were sought from industry representatives on drafts of possible regulations. These possible changes, which are described in Appendix I, were incorporated into draft regulations which have been submitted to the Department of Justice Canada for legal drafting. Consideration could be given to promulgation of these changes as an interim measure pending preparation of any legislation to meet new policy initiatives which may be determined.

Territorial Dredging Regulations

These regulations were promulgated in 1954 and govern the issuance of leases to dredge for minerals in the submerged beds of rivers in the Northwest Territories and Yukon.

Although the administrative features of these regulations are generally satisfactory, some changes may be considered respecting the following elements.

Exploratory Work

Generally, exploratory work is required in other legislation (proposed Territorial Coal Regulations, Yukon Quartz Mining Act, Canada Mining Regulations) prior to the issuance of a lease. A requirement to do exploratory work

may be unnecessary since dredging must be commenced within 3 years. It is possible that submission of exploratory work reports by a lessee would be made mandatory.

Leases

A 21-year lease period, instead of current 15-year term, renewable for additional terms, is possible in order to be consistent with other territorial mining legislation.

Canadian Participation Provisions

The regulations currently do not provide for a minimum degree of Canadian ownership in rights granted (Canadian participation provisions). Since production need not begin until 3 years after the date of a lease, this period could be used for exploration of the lease area and for the lessee to make arrangements to meet Canadian participation provisions. Possibly, Canadian participation provisions could be instituted at the production stage.

Export Permits

There is no current requirement for the governor-in-council to authorize the export from Canada of ores with a gross value exceeding \$100 000 per year. Because such a requirement is a well established principle of Canadian legislation and because production can include minerals other than gold, this provision will be considered in any amendments to the regulations.

Notice Before Cancelling Lease

There could be a requirement to provide a written notice before cancelling a lease.

Relief from the Regulations

A section could be included giving relief from complying with the regulations when the lessee is unable to do so for circumstances beyond his control.

Other Legislation

There is some doubt that the enabling power of the Territorial Lands Act and the Public Lands Grants Act are broad enough to authorize the making of comprehensive regulations such as the Canada Mining Regulations and the Territorial Coal Regulations. Although this opinion is not universal, the sections of the two acts which provide the regulation making authority could be replaced to remove the ambiguity resulting from conflicting legal opinions. A Northwest Territories mines act could be considered.

In order to authorize the establishment of the Territorial Land Use Regulations, the Territorial Lands Act was amended in 1970 to include an enabling authority. At the same time, because of the promulgation of the Northern Inland Waters Act, provisions granting rights to water under the Yukon Placer Mining Act and the Yukon Quartz Mining Act were revoked. A section remained in the Territorial Lands Act which, in effect, gave seniority to the two Yukon mining acts. As a result, the Territorial Lands Act or any regulation made thereunder, in particular, the Territorial Land Use Regulations, do not apply to lands on which a mineral claim has been located pursuant to Yukon Quartz Mining Act and the Yukon Placer Mining Act. Consideration could be given to the removal of this section of the Territorial Lands Act in order that the provisions of the Territorial Land Use Regulations apply to all lands in the two territories including mining lands in Yukon.

Conclusions

For the short term, the department will continue its efforts for the promulgation of revisions to the Canada Mining Regulations and the Territorial Coal Regulations.

In the longer term, changes to existing statutes may be required. Prior to any possible changes, extensive government-industry consultation will be undertaken in order to reach a consensus on proposed legislative amendments.

APPENDIX I

SUMMARY OF PROVISIONS CONTAINED IN DRAFT REGULATIONS SUBMITTED FOR LEGAL DRAFTING

The two draft regulations, described below, were prepared prior to the preparation of this review but are not promulgated.

CANADA MINING REGULATIONS

The following possible revisions to the Canada Mining Regulations, presently undergoing legal drafting, deal, for the most part, with minor administrative items to reflect decentralization of functions to regional authority and to simplify staking procedures and representation work requirements.

Possible Revisions

Since the function of issuing and administering prospecting permits has been delegated from headquarters to regional officials, these changes to the responsible authority could be reflected in the regulations.

Similarly, changes of various official titles could be reflected in the regulations.

The requirement to perform a specified amount of physical work (drilling, trenching, etc.) to entitle a person to be granted a lease could be revoked.

The requirement to number boundary posts could be removed.

The sections dealing with claim disputes could be clarified.

TERRITORIAL COAL REGULATIONS

Disposition of Coal Exploration Rights

These could be handled by a permit system, tied to areas defined by the national topographic system (average permit area is 18 200 hectares). Administration of these rights could be administered by the regional directors, with final decisions on granting permits to be at the discretion of the minister. Application for a permit

could be made at any time with no restriction on the area one permittee may hold. The term of the permit could be 5 years with a renewal period of a further 3 years. Expenditures on exploratory work could be required, as well as a deposit to guarantee the performance of work. Overexpenditures and underexpenditures could be carried forward. A permittee could have the opportunity to obtain leases for any part or all of the permit area once a minimum amount of work (60 cents per hectare) has been accomplished.

Leases

Leases could be issued by the minister with the resulting administrative functions carried out at Indian and Northern Affairs Canada headquarters. Lease areas could extend from an average of 280 hectares to an average of 1 100 hectares and for this purpose permit areas could be broken down into 64 sections. A permittee could have priority for leases in the area of his permit; otherwise leases could be obtained by anyone for areas not being held. Rentals for a lease might be \$10 per hectare per year, reducible to \$1.50 per hectare as work is done on the lease or if the coal reserves have been defined to the satisfaction of the minister and production of coal is not currently feasible. Work could be carried over from a permit only to the first year of a lease. The lease term could be 21 years and could be renewable subject to the laws in force at the time of renewal.

Coal Production

Coal production except for local use, could only be permitted from leases which must be surveyed prior to production; the survey would not be recorded by the minister until the Canadian participation provisions have been fulfilled by the lessee. The Canadian participation provisions would be the same as are in the Canada Mining Regulations.

Coal for Local Use

Certificates to mine up to 100 metric tons of coal per year for individuals or community use could be issued in the form of a certificate by the regional director who could approve the area from which coal may be obtained and

set the terms and conditions which are to apply to the certificate. No rental or royalty would be paid. If the certificate area becomes included in a lease under production, the lessee might be obliged to provide coal to the certificate holder at cost.

Lands Reopened for Disposition

These would be lands formerly held under a permit or lease which has expired. Disposition of these rights could be by a coal permit which would be obtainable 15 days after a notice is posted, each March 1, listing the areas available. The intention of such a system would be to provide each individual with an equal chance to acquire such areas.

Export Permits

Export permits issued by the governor-in-council could be required prior to the export of any coal or coal product from Canada, other than for assay or testing purposes.

Transitional Provisions

Transitional provisions could allow rights currently held to be converted to rights under these regulations on an application being made.

Discretionary Powers

The discretion to issue permits could be placed with the minister to permit controls which may be required relative to matters such as environmental considerations or land claims settlements. The regional director would recommend the granting of a permit if the applicant has complied with the provisions of the regulations although the final decision to issue a permit or not would rest with the minister.

APPENDIX II

SUMMARY OF PROVISIONS CONTAINED IN EXISTING LEGISLATION

THE YUKON QUARTZ MINING ACT

The Yukon Quartz Mining Act was enacted in 1924 and has not been amended since 1952.

Where and by Whom Claims May be Acquired

Any person 18 years of age or over may personally or by attorney, enter, locate prospect and mine on any vacant territorial lands in the Yukon with the exception of several areas such as lands occupied by a building, church or cemetery, lands on which is located an Indian reserve, national park, etc., and any land valuable for water-power purposes. Also excepted are other reservations made by the Government of Canada. However, in certain cases entry is permitted subject to the deposit of security for any loss or damage.

Definition of Mineral

Mineral as defined in the act and which may be acquired under it, includes all lode deposits of the minerals listed in subparagraph 2(1)(o). Items which are not included are coal, petroleum, natural gas and other fuels or building materials such as limestone, marble, clay, etc. The definition of mine means any land in which a vein, lode or rock in place is mined for gold or other minerals, precious or base, as defined in the act.

Mineral Claim Staking Procedures and Recording

A mineral claim is a rectangular plot of ground not exceeding 1 500 feet (457 m)* in length by 1 500 feet (457 m) in width (51.65 acres or 20.9 ha). All angles shall be right angles

* Throughout Appendix II, weights and measures are left in imperial measurements, the same units that are used in existing legislation. Metric equivalents are given in parentheses for information, and should be treated only as approximations.

except in cases where a boundary line of a previously located claim is adopted as common to both locations. Each claim shall be marked by two legal posts, one at each extremity of the location line. The location line may have any bearing or direction but must be a straight line measured between location posts. The location line may form one of the sides of a mineral claim or a portion of the claim may lie on either side of the location line. A legal post means a stake or post of sound timber not less than 4 feet (1.2 m) in height and the top 18 inches (45 cm) must be squared or faced so that the squared or faced portion is not less than 4 inches (10.2 cm) wide. A suitable size tree found in position may be used as a legal post but whether the post is planted or a stump of a tree is made into a post, a mound of earth or stones must be erected around the base, such mound to be not less than 3 feet (0.9 m) in diameter and not less than 18 inches (45 cm) high, cone shaped and well constructed.

Where, from the nature or shape of the ground or if the ground is covered by water it is impossible to mark a true location line it may be marked by a witness post. Only the No. 2 post may be witnessed and the distance and direction to the true extremity of the location line must be marked on the post.

A person may, whether personally or by attorney, locate not more than eight claims within a radius of 10 miles (16 km) in any 12-month period. When a mineral claim is staked, the person locating the claim must have it recorded with the mining recorder for the district in which the claim is situated within 15 days if located within 10 miles (16 km) of the recording office. One additional day will be allowed for recording for each additional 10 miles (16 km) or fraction.

Claim tags are supplied free of charge by a mining recorder when the claim is submitted for recording and these tags must be affixed to the posts as soon as reasonably possible after the recording of the claim.

Representation Work

A mineral claim may be held from year to year provided that work is performed on the claim to the value of \$100. Excess work, up to a value of \$400, may be applied to a subsequent year or years. Non-physical work (no actual "digging" on the ground) such as geological investigations, aerial reconnaissance, etc., may be applied only during the first

3 years subsequent to the date of recording and any excess work of this type may not be applied beyond the third year. After the first 3 years all work which is applied as representation work must be of a physical nature such as diamond drilling, trenching, shaft sinking and underground work.

In lieu of performing representation work, a claim holder may pay the sum of \$100 in order to maintain his claim in good standing for the ensuing year.

All work, including excess work, done on a mineral claim must be submitted to the mining recorder within 14 days of the expiry of the year in which it is required to be performed. At the end of the 14 days the claim lapses and is open to relocation. However, if the claim holder has performed the necessary work, he may, within 6 months of the expiry of the claim submit the work to the mining recorder and the claim will be reinstated. In the meantime, should the claim be restaked by another person the previous owner is required to pay to the second staker all expenses incurred in locating the claim.

Work done on a mineral claim and submitted as representation work is held by the department in confidence until such time as the claim or lease to which it relates lapses or is cancelled.

Grouping

Sixteen adjoining claims may be grouped together for the performance of representation work by one or more owners. Work may be done on any one or more claims in the group and distributed over any number of the claims contained in the group.

Where a grouping certificate has been issued, the owner or owners may apply to have all claims in the group renewable on any one date. Work or payment in lieu is required at the rate of \$25 for each 3 months or portion thereof to extend the date of any of the claims.

Leases

The holder of a mineral claim is entitled to receive from the mining recorder, a certificate of improvements when the following requirements have been met:

- . The holder has done or caused to be done work on the claim in developing a mine to the value of \$500. This amount may consist of physical type work or payment in lieu of the work. The cost of a land survey not exceeding \$100 may be included;
- . a vein or lode has been found within the limits of the claim;
- . a legal land survey has been performed by a Canada Lands surveyor, advertised in local newspapers and the mining recorder's office and a copy of the plan placed on a conspicuous place on the claim; and
- . an officer of the department has inspected the claim and filed a report to the mining recorder indicating that he is satisfied that the required expenditures have been made and a vein or lode has been located.

Within 3 months of the issue of the certificate of improvements, the claim holder must submit the lease fee and rental at which time a lease will be issued by the department.

Leases are issued for a period of 21 years renewable for a further 21 years and renewable for further periods of 21 years each on terms and conditions prescribed by the governor-in-council. The rentals payable are \$50 for the entire 21-year period for the original lease and \$200 for renewals.

Rights of Claim and Lease Holder

A claim holder is entitled to all the minerals to which the act applies, including the right to mine and sell those minerals, provided he maintains his claim in good standing by observance of the provisions of the act. The holder is also entitled to occupy as much of the surface as he requires for the efficient and miner-like operation of mines and includes the right to cut timber for his mining operation. The right to surface and timber are however, subject to prior rights granted to persons for the timber and surface.

A lessee is entitled to the same rights subject to the terms and conditions of the lease.

Although the act provides for the issuance of surface leases at \$1 per acre (\$2.47 per ha) per year, surface leases are issued pursuant to the Territorial Lands Regulations.

Water Rights and Land Use

The act, as promulgated in 1924, contained provisions for the acquisition of water rights. However, with the passing of the Northern Inland Waters Act in 1970, the water use provisions in the Yukon Quartz Mining Act were revoked.

The Territorial Lands Act was amended in 1970 to provide for the making of Land Use Regulations but the provisions of this act, which basically gave senior status to the Yukon Quartz Act and the Placer Mining Act, were not removed and the ensuing Territorial Land Use Regulations have no legal status on mining lands in Yukon.

Royalties

The royalty imposed by the Yukon Quartz Mining Act is a tax on profits at a graduated rate to six per cent at \$10 million profit level and an increase of one per cent for each \$5 million thereafter with no upper limit.

YUKON PLACER MINING ACT

The current Yukon Placer Mining Act was promulgated in 1906 and with the exception of minor amendments throughout the years remains basically unchanged today. The most significant change to the act took place in 1970 with the enactment of the Northern Inland Waters Act (and subsequent establishment of water management areas by regulation in 1972) which revoked the sections of the Yukon Placer Mining Act (and the Yukon Quartz Mining Act) respecting the granting of water rights. The following pages contain a summary of provisions of the present act.

Where and By Whom Claims May be Acquired

Any individual 18 years of age or over, on his own behalf, on behalf of any corporation authorized to carry on business in the territory, or on behalf of any other individual 18 years of age or over, may enter for mining purposes, locate, prospect and mine for gold and other precious minerals or stones upon any lands in Yukon.

Excepted from this provision are lands to which the National Parks Act applies, used as a cemetery or burial ground, occupied by building or within the curtilage of a dwelling, within the boundaries of a city, town or village, under the administration of the Minister of National Defence, lawfully occupied for placer mining purposes or withdrawn from disposal by governor-in-council pursuant to section 93 of the act or 18(d) of the Territorial Lands Act.

Definition of Placer Mining

The definition of placer mining in the Yukon Placer Mining Act includes every mode and method of working whatsoever whereby earth, soil, gravel or cement may be removed, washed, shifted or refined or otherwise dealt with, for the purpose of obtaining gold or such other minerals or stones, but the definitions of placer mining does not include the working of rock in situ.

Mineral Claim Staking Procedures and Recording

A claim on a creek shall not exceed 500 feet (152 m) in length, measured along the base line of the creek. The base lines are established by government survey but should the surveyed base

line not exist, the claim shall follow the general direction of the valley, claim boundaries being adjusted when surveys are completed. The claim shall be rectangular in shape and be marked by two legal posts firmly planted in the ground on the baseline at each end of the claim.

The side boundaries of a claim shall be lines on either side of the base line, parallel thereto and measuring 1 000 feet (305 m) on each side of the base line. The end boundaries are lines drawn at each end and at right angles to the base line.

A claim situated elsewhere than on a creek shall not exceed 500 feet (152 m) in length, parallel to the base line of the creek which it fronts by 1 000 feet (305 m) (one-half the size of a creek claim).

The line between the two posts shall be well cut out so that one post may, if the nature of the surface will permit, be seen from the other.

A "legal post" means a stake having a diameter throughout of not less than 5 inches (13 cm), standing not less than 4 feet (1.2 m) above the ground and flatted on two sides for at least 4 inches (10 cm) across the face, and includes also any stump or tree cut off and flatted or faced to the aforesaid height and size.

One of the flatted sides of each post shall face the claim, and on each post shall be written on the side facing the claim, a legible notice stating the name or number of the claim, or both if possible, its length in feet, the date when staked, and the full Christian and surname of the locator. The posts shall be numbered 1 and 2 respectively, and it is not lawful to move them except that No. 2 may be moved by a Dominion land surveyor, if the distance between the posts exceeds the length prescribed by the act, but not otherwise.

Any person or party of persons locating the first claim on any creek, hill, bench, bar or plain, or locating a claim on any creek, hill, bench, bar or plain upon which there is no recorded claim, is entitled to a claim or claims respectively of the following size, namely, one locator, one claim 1 500 feet (457 m) in length; and a party of two or more locators, two claims, each 1 250 feet (381 m) in length; and for each member of the party beyond two, a claim of the ordinary size only.

An application in duplicate for a grant for a claim shall be filed with the mining recorder within 10 days after the location thereof, if it is located within 10 miles (16 km) of the mining recorder's office. One extra day shall be allowed for every additional 10 miles (16 km) or fraction thereof.

As soon as reasonably possible after a grant of a claim the holder of the claim shall affix or cause to be affixed securely to each of the posts of the said claim a metal tag plainly marked or impressed with the number and letter or letters, if any, of the grant of the claim. The mining recorder on application shall supply the numbered tags free of charge.

Any person who records a claim in his own name or who has a claim recorded in his name by power of attorney does not have the right to locate or have located for him another claim within the valley or basin of the same creek or river within 60 days of the date on which the said claim was located.

Any person having duly located a claim may obtain a grant thereof for 1 or 5 years by paying to the mining recorder, in advance, the prescribed fees.

Representation Work

A grantee is entitled to hold the claim for the period stated in his grant with the absolute right of renewal from year to year thereafter upon payment of the renewal fee prescribed in the act, if that person, during each year, does, or causes to be done, work on the claim to the value of \$200, in accordance with a schedule prepared by the commissioner, and if that person files, within 14 days after the date of the expiration of each period, a detailed statement indicating the work performed.

When more work is performed by the recorded owner of a claim than is required by the act during any year, the excess work up to a value of \$800 shall be applied by the mining recorder towards work required to be done during the subsequent year or years. Excess work may only be recorded during the year in which it was performed or within 14 days of the expiry of such year.

Grouping

Adjoining claims, not exceeding 10, may be grouped together for the performance of work by the owner or owners of the claims.

Any number of claims, some of which do not adjoin may, with the approval of the commissioner be grouped together for the performance of work by the owner or owners if the owner or owners show to the satisfaction of the commissioner that the claims are to be operated by a system of mining which has a direct bearing on all other claims affected and renders a considerable area necessary to successful operation by the system proposed.

Prospecting Leases

- a) The commissioner may grant a lease to prospect for the purposes of placer mining on lands which are available for disposal under the provisions of the act, upon receipt of an application accompanied by satisfactory evidence of the applicant's financial ability and intention to incur the expenditure necessary to thoroughly prospect the area described in the application. The term of the lease shall be 1 year, renewable for two additional periods of 1 year each, if the lessee on or before the termination of the year furnishes the commissioner with evidence to show that he has incurred the prescribed expenditure in prospecting operations, and has otherwise complied with the provisions of the act and with the terms and conditions of the lease.

The location is marked in the same manner as placer claims, by placing two legal posts at either end of the location. On a river, the lease will run 1 000 feet (305 m) from the base line but on one side of the river only and is valid only for the area from the foot of the natural banks. With the absence of surveyed river base lines, a ruling has been made that the natural bank on either side of the river will, for the purposes of the act, be deemed to be the surveyed base line, therefore the 1 000 foot (305 m) measurement will commence at that point. In the case of a creek location, the lessee is entitled to 1 000 feet (305 m) on both sides of the creek measured from the base line. Locations other than on a creek or river are not to exceed 1 000 feet (305 m) in width. These locations have a maximum length of 5 miles (8 km).

Before the termination of the lease the lessee may stake out placer mining claims comprising the whole or any portion of the tract leased. The unrecorded portion of the location immediately reverts to the Crown and becomes available for disposal under the act.

- b) A lease on a creek or river on which valid mineral claims do not or have not existed, cannot exceed 1 mile in length, shall be for a term of 1 year only and the lessee may stake only one discovery claim within the leased area on expiry of the lease. The remaining area reverts to the Crown.

Taxation

Under the Yukon Placer Mining Act the "taxation" or application of a royalty to all gold recovered from placer mining operations is not effective because no taxes or royalties are payable if gold remains within the territory. Section 85 imposes a royalty on gold shipped from Yukon at the rate of 2.5 per cent based on the value of gold at \$15 per ounce. Provision is made to reduce the royalty rate by the governor-in-council. This was done in 1957 to 1.5 per cent but returned to 2.5 per cent in 1981 by revocation of the 1957 order-in-council. The present royalty is, therefore, 37.5 cents per ounce (28.3 g) collected on all placer gold exported from the territory.

No provisions are made for reporting production or for the payment of any royalty or fee with respect to the removal, by placer mining of minerals other than gold. In recent years major placer operators have been recovering other minerals such as tin and tungsten along with the gold from their placer deposits but the quantities being recovered are not known nor is it known if other materials are also removed since no reporting requirements are contained in the act.

Water Rights and Drainage

The Act, as promulgated in 1906, contained provisions for the use, sale and drainage of water in connection with placer operations. Generally, the claim owner was entitled, as part of his grant, to use the naturally occurring water for the working of his placer claim. Also grants were provided to divert water for personal use or sale and included in the grant was the right of way over any property subject to compensation

for damage. During the early 1900s, water use by individual operators was considerably less than that used today because operations involved labour intensive methods rather than mechanized methods.

With the passing of the Northern Inland Waters Act in 1970, the use of water, drainage, etc., were removed from the Yukon Placer Mining Act and are now under the control of the Yukon Water Board as established pursuant to the Northern Inland Waters Act.

CANADA MINING REGULATIONS

The Canada Mining Regulations apply to the Northwest Territories and Canada Lands in the provinces and offshore. They are promulgated pursuant to the Territorial Lands Act and the Public Lands Grants Act.

Where and By Whom Claims May be Acquired

Any person 18 years of age or over and any corporation authorized to carry on business in the Northwest Territories may obtain a prospector's licence upon request and payment of the prescribed fee. The possession of a licence entitles the holder to enter upon, stake out mineral claims, prospect and develop minerals on lands to which the regulations apply with the exception of several areas such as lands occupied by any building for the time being in use, lands on which is situated a church or cemetery, Indian reserve, national park, etc.

The regulations also apply to off-shore lands in Canada which are under the jurisdiction of Energy, Mines and Resources Canada (EMR) but before entry on those lands, the prior written consent of the minister of EMR must be obtained.

Definition of Mineral

Mineral as defined by the Canada Mining Regulations and which may be acquired under them includes all deposits of gold, silver and other naturally occurring substances that can be mined excepting soil, limestone, gravel, native sulphur, peat, coal, petroleum and related hydrocarbons as well as any other useful elements that are dealt with under any regulations made pursuant to the Public Lands Grants Act and/or the Territorial Lands Act.

Mineral Claim Staking Procedures and Recording

A mineral claim is a plot of ground not exceeding 2 582.5 acres (1 045.1 ha) with boundary lines running, as nearly as possible, astronomic north, south, east and west. The length cannot exceed five times the width. All angles shall be right angles except in cases where a boundary of a previously located claim is adopted as common to both locations. A legal post, which can include a) a wooden stake; b) a suitable sized tree; or c) a mound of earth or stones, must be placed at each of the four corners of the claim.

The posts must be, in the case of a) and b), at least 4 feet (1.2 m) in height, squared on the upper foot (31 cm) so that the squared portion is not less than 1.5 inches (3.8 cm) wide. In the case of c) the mound must be 3 feet (0.9 m) in diameter at the base and not less than 3 feet (0.9 m) high.

The outer boundaries of the claim must be marked throughout their entire lengths with boundary posts placed every 1 500 feet (457 m) and numbered accordingly. A metal tag must be placed on each corner post with the appropriate information inscribed on the tag. The tags must be purchased from a mining recorder and placed on the posts at the time of staking or within 60 days thereafter.

A person may, on his own behalf or on behalf of another person or corporation stake an unlimited number of claims. The staker has a period of 60 days from staking in which to submit his application to record to a mining recorder.

Representation Work

The holder of a mineral claim is entitled to retain the claim for a period of 10 years from the date of recording if he performs work to the value of \$4 per acre (\$9.88 per ha) contained in the claim during the 2-year period immediately following the recording and during each year thereafter an amount of \$2 per acre (\$4.94 per ha). At the end of the 10-year period the claim holder must apply for lease.

All types of work may be applied as representation work and any excess work performed may be carried forward to future years. If the claim holder is unable to perform the required work he may apply for an extension by depositing security with the mining recorder in an amount equal to the required work. On completion of the work in the ensuing years, the deposit will be refunded. Non-performance results in the forfeiture of the security to the Crown. Extensions for illness are provided with the submission of the prescribed fee and a certificate of a medical practitioner verifying the illness.

Work done 2 years prior to the recording of the claim or work done outside the boundary of the claim may be accepted if the mining recorder is satisfied that the work was done for the purpose of developing the claim.

All details of work performed on a mineral claim is held in confidence by the department for 3 years from the date of submission to a mining recorder.

A claim will not lapse until a notice is sent by the mining recorder advising the holder that corrective action must be taken within 60 days from the date of the notice.

Grouping

Adjacent mineral claims not exceeding 5 165 acres (2 090 ha) in area may be grouped by the owner or owners for the purpose of distributing work. Once applied, the claims cannot be re-grouped and excess credits applied to additional claims. A grouping becomes invalid if one or more claims in the group lapses or is leased.

Reduction of Mineral Claims

A mineral claim may be reduced in area on application by the holder if a certificate of work has been issued for the original claim area.

The retained area must be one parcel staked out in the same manner as original claims except that the tags to be used are reduced area tags. The holder of the reduced area claim may hold the claim for the unexpired term of the original claim and any excess work credits may be applied to the retained area.

Prospecting Permits

A prospecting permit grants the exclusive right to explore an area comprising one-quarter of a claim map area. The national topographic system is used to designate claim map area and the permits range in area from approximately 20 000 acres (8 094 ha) to 71 000 acres (28 733 ha) depending on latitude.

Permits are issued for 3 years south of latitude 68 and for 5 years north of latitude 68. They provide a vehicle for industry to explore a large area at a fairly low cost and without the cost of having to stake out mineral claims. A permittee is required to spend in exploration 10 cents per acre (25 cents per ha) during the first year, 20 cents per acre (49 cents per ha) the second year and 40 cents per acre (98 cents per ha) the third year for a permit located south of latitude 68. The costs are the same for a permit north of

latitude 68 but apply to the first 2-year period, the second 2-year period and the third 1-year period. A permit may be relinquished at the end of the first or second period and provided the required work has been completed up to the surrender or expiry date, the permittee may stake claims comprising all or part of the permit area.

Applications for permits are entertained only between December 1 and 31 of each year, and the permit issued is effective February 1. The applicant must submit a security deposit, equal to the expenditure required, which will be returned on approval of the work. These deposits must be maintained on an annual basis except in cases where excess work has been carried forward from a previous work period to cover the required expenditures.

In addition to the carry forward of excess work credits to the ensuing years on the permit, excess credits may also be applied to the work requirements on any claims staked within the permit area. A permittee may also carry forward to future years any work requirements which have not been met provided a deposit is made for the amount of the underexpenditures.

Leases

A claim holder may apply for a lease if he has performed representation work to the value of \$10 per acre (\$24.71 per ha) on the claim (\$4 per acre (\$9.88 per ha) of this amount must be physical work such as drilling, trenching, etc.) and the claim has been surveyed by a Canada Lands surveyor, approved by the surveyor general and advertised in the prescribed manner. A lease may be acquired without performing the required work, if the claim holder undertakes to commence production.

Another requirement for the acquisition of a lease is the fulfillment of the Canadian participation provisions which, in general terms, requires the applicant to be a Canadian citizen or, in the case of a corporation, to be listed on a recognized Canadian stock exchange or is a subsidiary of a corporation which is listed. Private corporations would qualify if 50 per cent of the authorized shares are owned by Canadian citizens and/or by a corporation which is listed on a Canadian stock exchange.

Leases are issued for a period of 21-years, renewable for a further 21 years and renewable thereafter for 21 year periods on terms and conditions prescribed by the minister. Annual rentals of \$1 per acre (\$2.47 per ha) and \$2 per acre (\$4.94 per ha) for originals and renewals respectively are payable in advance. A 60-day notice is sent warning that the lease may be cancelled if the rentals are not paid within 30 days of the due date.

Rights of Claim and Lease Holder

A claim or lease conveys to the holder the right to the underlying minerals but does not entitle him to the surface rights other than the right to enter upon or occupy such part of the surface that is necessary for the purpose of prospecting, exploring, developing and operating a mine. Where the surface has been disposed of, an arbitration procedure is outlined in the regulations for settling disputes.

The holder of a mineral claim cannot dispose of any minerals or ores from the claim in excess of \$100 000 per year, other than for assay or testing purposes, unless he has been granted a lease. Approval of the governor-in-council is also required in order to export from Canada any minerals or ore in excess of \$100 000 other than for assay or testing purposes.

Land Use

The Canada Mining Regulations are subject to any regulations made pursuant to the Territorial Lands Acts as well as any other applicable acts, regulations or ordinances. Therefore full compliance must be made by the mineral rights holder with land use, environmental and public health and safety requirements.

Royalties

The royalty imposed by the Canada Mining Regulations is a tax on profits at a graduated rate, the upper limit of which is 12 per cent on profits in excess of \$35 million.

TERRITORIAL COAL REGULATIONS

The Territorial Coal Regulations apply only to territorial lands under the control, management and administration of the Minister of Indian Affairs and Northern Development pursuant to the Territorial Lands Act.

Where and By Whom Coal Rights May be Acquired

Any person 18 years of age or over on his own behalf, or on behalf of any other person or persons, or a corporation, is entitled to stake out a location or prospect for coal on lands to which the regulations apply with the exception of several areas such as land used for a cemetery, land within the limits of a municipal district, land reserved for an Indian reserve, national park or other public purpose, land occupied for mining purposes, etc.

Location and Staking Procedures and Recording

A location is a tract of land containing coal or believed to contain coal. A lease or permit of a location must be staked out as nearly as possible in the form of a rectangle of which the length shall not exceed four times the width and shall contain not more than 640 acres (259 ha) where it is intended as a lease or not more than 1 acre (0.4 ha) where it is intended for a permit. A legal post, which may be a) a wooded stake; b) a suitable sized tree found in position; or c) a mound of earth or stones must be paced at each of the four corners of the location.

In the case of a) and b), the posts must be 4 feet (1.2 m) in height, squared or faced at least 18 inches (46 cm) from the top so that the squared portion is 3 inches (7.6 cm) wide, and mounded around the base with earth or stones, such mound to be 2 feet (60 cm) in diameter at the base and 1 foot (30 cm) high. The inscriptions required by the regulations shall be placed on the squared portion of the posts. Where item c) is used as a legal post, the mound must be conical in shape, 3 feet (0.9 m) in diameter at the base and 2 feet (60 cm) high. The inscriptions must be inserted in a metal tube which is 4 inches (10 cm) long, 0.5 inch (1.3 cm) in diameter and closed at both ends and this tube is to be placed in the centre of the mound. All boundary lines must be marked throughout the entire length.

Coal Mining Leases

A person may apply for a lease by filing with a mining recorder his application, the prescribed fee and first year rental and a sketch of his location. The minister may, in such form as he determines, issue a lease for a term of 21 years at an annual rental of \$1 per acre (\$2.47 per ha) per year. Renewals of 21-year periods may be authorized by the minister.

Coal Mining Permits

A person may submit, to the mining recorder, an application for permit along with the prescribed fee, payment of an estimated royalty and a sketch of the location.

Permits which are issued by the mining recorder expire on March 31 following the date of issue and may be renewed on application without restaking.

Exploration Licences

An application, on an approved form, accompanied by a fee of \$10 and a deposit to guarantee that work will be performed on the licence area, may be submitted for an exploration licence at any time. A licence, valid for 3 years, may then be issued by the director, mining management and infrastructure for an area equal to one quarter of a mineral claim staking sheet.

Representation Work

Representation work is required only on the area of a licence. The licensee undertakes to spend in exploration work the amounts of 5 cents per acre (12 cents per ha) in respect of the first year; 10 cents per acre (25 cents per ha) in respect of the second year; and 20 cents per acre (49 cents per ha) in respect of the third year.

A guarantee deposit must be submitted to cover the expenditure required and if the work is performed the deposit is returned. The licence may be relinquished in whole or in part at the end of the first or second year. A detailed statement of expenditures along with the technical reports concerning the work performed must be submitted at the termination of each licence year.

Rights of Licencee, Permittee and Lessee

A licensee has the exclusive right to explore for coal within the designated area but this does not include the right to mine any quantity of coal. He also has the right to obtain a permit or lease in respect of lands for which the licence was issued until the expiration of 90 days after the end of the licence.

A permittee has the right to enter upon his location and mine the quantity of coal set out in his permit. Only one permit may be held by a person at one time. A permit may be issued to a department of the Government of Canada, a municipal district, a local improvement district, a municipality or an educational, religious or charitable institution free of charge and without payment of any royalty to mine 100 tons (91 metric tons) of coal for the applicant's own use. Indians and Inuit may mine small quantities of coal with the permission of a territorial land agent or member of the RCMP free of charge and without making application under the regulations.

A lessee is entitled to the coal upon or in the land included in his lease and has the right to enter upon and use the surface to such extent as the minister considers necessary for efficient coal mining operations. The minister may, at any time, notify the lessee to commence active operations and state the quantity of coal which shall be produced. No person may stake or acquire more than one lease except by assignment. If a lease is situated more than 10 miles (16 km) from a railroad, the lessee may apply amounts expended on prospecting and developing operations to write off the yearly rental for not more than 5 years during the term of the lease.

Where the surface rights of any land are owned or lawfully occupied by another, a location may not be staked unless the consent of the owner is obtained and security is deposited with the mining recorder for any loss or damage.

Royalty

A lessee must pay an annual royalty of 10 cents per ton (11 cents per metric ton) on merchantable coal mined from his location. A statement showing the amount of coal mined must be submitted within 1 month after the end of each lease year.

A permittee must pay a royalty at the rate of 25 cents per ton (28 cents per metric ton) of merchantable coal mined from his location. The holder of a permit estimates the amount of coal that will be mined during the ensuing year and a royalty payment is made in advance based on the estimate. Any excess royalty payment will be returned to the permittee.

THE TERRITORIAL DREDGING REGULATIONS

The Territorial Dredging Regulations apply to the beds of rivers in Yukon and the Northwest Territories pursuant to the Territorial Lands Act.

Where and By Whom Dredging Leases May be Acquired

These regulations govern the issue of leases to dredge for minerals (naturally occurring substances other than peat, bitumen, oil shales, clay, sand and gravel) in the submerged beds of rivers in the Northwest Territories and Yukon.

One dredging lease may be issued by the minister to any applicant to dredge for minerals between the natural banks of any stream having an average width of at least 150 feet (46 m) throughout the portion to be leased. Public works are reserved from the lease. A lease may be assigned to another person with the consent of the minister.

The application for a lease shall be accompanied by a fee of \$5 together with the rental for the first year at the rate of \$100 for each mile (1.6 km) of river to be leased. The rental for each subsequent year shall be at the rate of \$10 for each mile (1.6 km), payable in advance.

Staking Procedures

The length of river to be leased shall be not more than 10 miles (16 km) measured along the middle of the river following its sinuosities and shall be marked out by two posts placed on the margin of the river above the highwater mark.

Each post is to have a diameter of at least 4 inches (10 cm) and stand at least 4 feet (1.2 m) above the ground and flattened on the downstream side. Each post is to be mounded to a height of 2 feet (60 cm) with a conical mound having a diameter at the base of at least 3 feet (0.9 m).

On the flattened area of the upstream post is to be inscribed: post No. 1, the date and time of staking, the name of the staker, the distance to the No. 2 post and the letters "DL". On the flattened area of the downstream post is to be inscribed: post No. 2, the name of the staker, the distance to the No. 1 post and the letters "DL".

Representation Work

The lessee shall, within 3 years from the date of his lease, have at least one dredge, of such capacity as the minister may deem sufficient, in operation upon the area described in his lease, and shall in every year thereafter during the continuance of his lease dredge from such area not less than 20 000 cubic yards (15 291 cubic metres) of gravel, sand or other substance.

If the lessee fails to furnish proof yearly, or at such times as the minister may direct, of the efficient operation of such dredge, and of the actual work performed, the minister may cancel the lease.

Grouping

Persons holding adjoining leases, not exceeding five, may be allowed to group their leases together for a term not exceeding 10 years for the fulfillment of the work requirements.

Rights of Lessee

The lease grants the right to dredge for minerals in the submerged bed of a river.

Each lease shall be for a term of 15 years and may be renewed from time to time at the discretion of the minister if it is shown to his satisfaction that the area of the lease has not been fully dredged; and the lessee has, during the term of his lease, carried on dredging operations efficiently and has otherwise complied with the regulations.

Royalty

As well as the specific royalties imposed by the regulations, each lease is to contain a provision that the lessee shall pay a royalty at such rate as may, from time to time, be prescribed.

The royalty on gold recovered in Yukon is the same as that collected on gold mined from placer claims, currently 37.5 cents per ounce (1.3 cents per gram), the maximum allowed by the Yukon Placer Mining Act. The royalty on gold recovered in the Northwest Territories is 1.25 per cent of its value. The royalty on other minerals recovered in both territories is 2.5 per cent of their value.

APPENDIX III

LEGISLATION, REGULATIONS AND ORDINANCES
APPLICABLE TO NORTHERN MINING OPERATIONS

Territorial Dredging Regulations

Territorial Lands Act, R.S., c. 263, s. 1

Territorial Lands Regulations, P.C. 1960-1711

Territorial Lands Use Regulations, P.C. 1977-532

Territorial Quarrying Regulations, P.C. 1957-424

Territorial Coal Regulations

Mining Safety Ordinances and Rules

Northern Inland Waters Act

Arctic Waters Pollution Prevention Act and Regulations

Dominion Water Power Act and Regulations

Public Lands Grants Act, R.S., c. 224, s. 1

Land Titles Act

Dominion Water Power Act and Regulations

Northern Inland Waters Regulations, Amendment, P.C. 1982-2360

Yukon Placer Mining Act

Yukon Quartz Mining Act

Yukon Blasting Ordinance

Explosives Use Ordinance of the Northwest Territories